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Fax (571) 273-8300 Pages 3 (including cover sheet)

Date July 14, 2006

From Susan M. Pellegrino

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Re U.S. Patent Application Serial No.: 10/675,406

Bayer Pharmaceuticals
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For U.S. Patent Application Serial No. 10/675,406

- 1) Response to Office Action mailed on June 28, 2006
- 2) Certificate of Transmission under 37 CFR 1.8
- 3) Fax Cover Sheet

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PTO/SB/97 (05-03)

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Susan M. Pellegrino, Reg. No. 48,972

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For U.S. Patent Application Serial No. 10/675,406

- 1) Reply to Office Action mailed on June 28, 2006
- 2) Certificate of Transmission under 37 CFR 1.8
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This collection of information is required by 37 CFR 1.8. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.8 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Attorney Docket No. 5138

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent Application of Deepa Eveleigh, et al.,

JUL 14 2006

Serial No.: 10/675,406

Group Art Unit: 1642

Filed: September 30, 2003

Examiner: Catherine Joyce

For: Biomarkers for Prediction and Prognosis of cancer, and Monitoring Cancer Therapy

CERTIFICATION OF MAILING UNDER 37 C.F.R. 1.8(a)

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Date: July 14, 2006


Susan M. Pellegrino

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
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Alexandria, VA 22313-1450

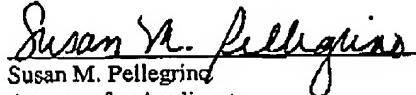
Sir:

This is in response to the Office Action mailed June 28, 2006. In response to the restriction requirement, applicants elect the claims of restriction Group I, claims 1-5, directed to a method to monitor the response of a patient being treated for cancer by administering a anti-cancer agent comprising determining the level of expression of one or more biomarkers, for further prosecution in this application. In addition, Applicants elect cancer of the respiratory tract and blood as a biological sample as the species for further prosecution in this application.

If there are any fees due in connection with the filing of the present response, please charge the fees to undersigned's Deposit Account No. 13-3372. If a fee is required for an extension of time not accounted for, such an extension is requested and the fee should also be charged to undersigned's deposit account.

Respectfully submitted,

Date: July 14, 2006


Susan M. Pellegrino
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